

From: Scott Ellsworth
To: Microsoft ATR,MicrosoftComments@doj.ca.gov@inetgw
Date: 12/13/01 2:00pm
Subject: For the sake of American competitiveness and worker productivity, do not accept the MS settlement

The recent settlement proposal by the DOJ does not actually remedy the results of Microsoft's rapacious practices, nor does it put anything effective in place to prevent similar practices in the future. Further, the counter-proposal to put more Microsoft products and equipment in the hands of the schools only furthers their monopoly. This is no more the way to discourage rapacious practices than an exotic dance is the means to discourage rape.

Accepting this settlement is not in the interests of the American people at large, American workers using computers, or American workers maintaining those computers. The only settlements that can be actual remedies are those that either split Microsoft or that force them to open their source code now and forever on anything in use by more than half the people in the target market.

I am a software consultant. I work in biotechnonology, but I have also done work in secure access, cryptography, database design, and mathematical modelling for econometric forecasting software. In all of these fields, we have felt the cold hand of Microsoft's monopolistic practices hanging over us like a pall. My clients in Irvine, Long Beach, and Carlsbad, CA, have all complained of predatory practices.

My wife is a member of the Management and Information Services division of the city of Newport Beach. She reports similar practices taking place in her place of work.

Both Isis Pharmaceuticals and the city have been threatened by Microsoft within the last six months, in an effort to get them to start using annual licenses. In the words of one Microsoft representative, "unless you can prove that every PC has the exact same copy of Windows and Office that came in the box with it, it is not enough to have sufficient licenses, registration cards, and CD packs. We will take you to court, and we will win, because it is impossible for you to prove that you are in compliance. It will cost you more to fight us on this, than to just pay the license fee for our new program." This blackmailer was claiming that even though the organization had bought and paid for valid licenses, Microsoft would force them to prove this. I find this most distressing, as the rep had been invited to the location to propose license options. These people wanted to make sure they were within the bounds, and were willing to listen to a presentation on the topic, but instead, they received threats.

Threatening someone's livelihood in these troubled times is, to me, no different than threatening to dynamite a business if it does not pay protection money. I would have hoped that the Department of Justice would try to protect us from such threats, but I accept that Microsoft is powerful enough to threaten the state itself. Still, the state has the ultimate power in such a struggle, and I hope that the individual states, and the country as a whole will use that power.

Microsoft has proposed donating millions of dollars of software and hardware to schools. I applaud their charity, but feel they must be forced to donate actual cash, which the schools may use as they see fit. At most, the schools should be asked to spend the money on computers, software, and training, but the brands and models should be up to the schools and the parents of the districts affected.

These schools will not be able to buy new machines any time soon, thus they will end up training yet more people to use Windows. Given that education is one of the few markets where Apple Computer has a strong share, I cannot see such a gift as anything more than further advancing their hegemony.

As part of my job, I routinely use Windows NT, Windows 2000, Linux, Solaris, and MacOS X, as I must use what the client wants. I can recommend, suggest, and encourage, but at the end of the day, a consultant must do what the client asks. I prefer MacOS X for both client and server applications, but I have set up Linux and Solaris servers, and Windows front ends as well. I can do this because we are using open source databases that run on all three, and our client software is written in Java. We find that Windows requires greater maintenance, has more downtime, and has larger security holes, but each customer makes the decision they need. Open source software, and cross platform Java let us give the customer what they desire, without locking them into a single vendor or platform.

Microsoft has done everything in its power to make this more difficult. This is a clear sign of intention on their part - they do not want people to have a choice, nor do they want people to pick the best solution for them. For some, Windows is the best choice, and they are welcome to it. For those with different needs or desires, shouldn't we be encouraging them to pick the best, most efficient choice? As they see it, not as Redmond does?

Thus, I encourage the federal government to revisit the settlement, and reconsider forcing them to open their source code. Reconsider splitting them into separate divisions. Decide what will give Americans choice. We have three auto makers in this country, and they have to hustle to compete with foreign models despite being on their toes. I fail to see how having all of our operating system and software eggs in one basket will make us more competitive in the

world market.

I encourage the states to stay strong. Do not let Microsoft threaten, browbeat, and cow you into accepting a settlement that will harm the workers and residents of your states. They want to get their hooks in deeper, and they do not believe you can hurt them. Prove them wrong.

Microsoft now feels that they are invulnerable. If Microsoft gets away with its lunatic settlement offer, or even gets away with destroying Netscape, and getting OS dominance by threats and intimidation, then we no longer deserve to be competitive. We will have sold our freedom for a handful of pottage, and I, for one, do not find that a fair trade.

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